

## NATURAL RESOURCES BOARD

### MINUTES

The regular meeting of the Natural Resources Board was held on Wednesday, January 25, 2006 in Room G09, State Natural Resources Building (GEF 2), Madison, Wisconsin. The meeting was called to order at 8:30 a.m. for action on items 1-7. The meeting adjourned at 3:45p.m.

#### ORDER OF BUSINESS

1. Organizational Matters

1.A. Calling the roll

Gerald O'Brien – present	Dan Poulson - present
Jonathan Ela – present	Herb Behnke - present
Christine Thomas – present	John Welter - present
Steve Willett – arrived at 10:00 a.m.	

1.B. Approval of minutes from December 7, 2005

**Mr. Poulson MOVED, seconded by Mr. Behnke approval of the minutes from December 7, 2005. The motion carried unanimously by all members present. Mr. Willett was absent.**

1.C. Approval of agenda for January 25, 2006

**Mr. Welter MOVED, seconded by Mr. Ela approval of the agenda for January 25, 2006. The motion carried unanimously by all members present. Mr. Willett was absent.**

2. Ratification of Acts of the Department Secretary

2.A. Real Estate Transactions

**Mr. Ela MOVED, seconded by Mr. Welter approval of Real Estate Transactions. The motion carried unanimously by all members present. Mr. Willett was absent.**

3. Action Items

3.A. Air, Waste, and Water/Enforcement

3.A.1. Request authorization for public hearing for Board Order CF-13-06, repeal of NR 127, NR 128, and NR 160 pertaining to obsolete grant programs and repeal and recreation of NR 166 pertaining to Safe Drinking Water Loan Program.

**Bob Ramharter**, Section Chief, Environmental Loans, Community Financial Assistance Bureau stated that the department administers the Safe Drinking Water Loan Program under ch. NR 166, Wis. Adm. Code. The bureau proposes to revise NR 166 to clarify the eligibility, procurement, amendments and scoring sections of the code. The revisions include new subsections in the eligibility and amendments section of NR 166 to write existing program policies into administrative rule. In addition, the bureau proposes to add language to limit the refinancing of local governmental units' existing debt on projects that are already constructed. Revisions to NR 166 will also eliminate some inconsistencies between NR 162, Clean Water Fund Program, and NR 166, making administration of the two programs more efficient. Chapters NR 127, NR 128 and NR 160 were the rules for grant programs that have been obsolete for more than 10 years due to changes in federal regulations and state statutes. Repealing these codes should eliminate any confusion their existence may cause about available funding programs. There is no known or probable controversy. The Board has not yet taken action on this code revision.

**Dr. Thomas MOVED, seconded by Mr. Poulson approval of Request authorization for public hearing for Board Order CF-13-06, repeal of NR 127, NR 128, and NR 160 pertaining to obsolete grant programs and repeal and recreation of NR 166 pertaining to Safe Drinking Water Loan Program. The motion carried unanimously by all members present. Mr. Willett was absent.**

3.B. Land Management, Recreation, and Fisheries/Wildlife

3.B.1. Adoption of Board Order FR-36-05, revisions to NR 46 and NR 47 relating to Managed Forest Law and Wisconsin Landowner Grant Program

**Carol Nielsen**, Tax Law Manager, Forest Management Bureau stated that revisions in administrative rules are proposed to reflect the changes made to Subch. VI of Ch. 77 Wis. Stats. in 2005 Wis. Act 25, 2005 AB 679 which is scheduled to be signed into law before December 31, 2005 and to implement administrative changes in the Wisconsin Forest Landowner Grant Program (WFLGP) to facilitate the Managed Forest Law (MFL) changes. 2005 Wis. Act 25 (05/07 budget) removed the requirement that the department be responsible to prepare all MFL management plans requested and institutes a plan preparation fee for any plan the department agrees to prepare. The goal is to refer more work to Certified Plan Writers (CPW) and free up DNR Forester time for other high priority work. AB679 modified the effective date of changes in Act 25 that were effective June 1, 2005 to July 2, 2005. The changes proposed include:

- \* Establish a process for referring plans and determining which plans the department agrees to prepare (e.g., no CPWs available) and create a formula for the plan preparation fee (PPF) based on current market rates.
- \* Modify the deadline for a draft plan (required for the May 15th application deadline) from April 1 to March 1 and modify CPW certification maintenance requirement to include submission of plan preparation cost data annually to be used in the PPF formula.
- \* Revise the WFLGP to cap cost sharing to 50% of available funds for plan preparation and 10% of available funds for priority two practices. This is to ensure that at least some funding (40%) will remain available for other priority one practices including tree planting and timber stand improvement.
- \* Modify the language to allow cost sharing of MFL mandatory practices which meet other cost sharing requirements. Remove the assignment of pay provision which has had little use.

**Mr. Ela MOVED, seconded by Mr. Poulson adoption of Board Order FR-36-05, revisions to NR 46 and NR 47 relating to Managed Forest Law and Wisconsin Landowner Grant Program.**

**Mr. O'Brien** asked if the changes are making it easier for the public who are involved in this to comply.

**Ms. Nielsen** stated that all the changes that are being made are to the entry process. It doesn't necessarily make it simpler or easier. Over time we can look at where things can be modified.

**Mr. Poulson** asked about changing the date for the grant process to give more time. He also asked who are the independent grant writers.

**Ms. Nielsen** stated that date has to do with the managed forest deadline. The certified plan writer list is available on the internet or by contacting the DNR county forester.

**Mr. Behnke** asked what is the difference in cost of higher a certified plan writer or having the DNR write it. He also asked if there is a cost difference depending on the number of acres involved in the plan.

**Ms. Nielsen** stated that the goal is to have the rates be similar based on the current market rates. There is a cost difference depending on the amount of acres. There is a base rate plus a certain amount per acre.

**Mr. Ela** asked about the 50 certified plan writers and if that number was going up or staying the same.

**Ms. Nielsen** stated that the certified plan writer was just implemented on November 1, 2005 and just held the training over the last couple of months. Most are willing to travel statewide.

**The motion carried unanimously by all members present. Mr. Willett was absent.**

### 3.B.2. Adoption of Board Order FR-42-05, revisions to NR 47.92 related to the Master Logger Certification Scholarship program.

**Jeff Barkley**, County Forest Specialist, Forest Management Bureau stated that the proposed rules for the master logger certification scholarships (Chapter NR47 Wis. Adm. Code) are being proposed because the 2005 Wis. Act 25 (05-07 budget) directed DNR to promulgate rules that establish criteria for a scholarship grant program to assist individuals who are seeking master logger certification through the Wisconsin Professional Loggers Association (WPLA). In October 2005 (Item 3.B.3) the Natural Resources Board approved authorization for public hearings in order to provide input on the development of permanent rules on the program and also authorized the adoption of emergency rules (FR-43-05E). The rules were drafted by Bureau of Forest Management staff working in conjunction with WPLA and DNR Legal Services. Input was solicited from forestry staff, legislative rules clearinghouse, the general public, and WPLA. A video conference hearing, at 3 sites, was held to formally request public input. In addition, the rule was posted on the administrative rules website.

This rule would establish the purpose, applicability, definitions, application and grant procedure, general provisions, accountability and audit procedures, and termination provisions of the program. Scholarships would pay up to 50% of the costs towards an individual's application fee. It would offset part of the program cost of processing applicants for Wisconsin master logger consideration. The funding would be applied as a credit towards an individual's application fee which includes: costs incurred during the audit process, training related to the audit process, information and outreach to prospective applicants, and record-keeping and administrative costs directly related to the program.

**Mr. Ela MOVED, seconded by Mr. Poulson adoption of Board Order FR-42-05, revisions to NR 47.92 related to the Master Logger Certification Scholarship program. The motion carried unanimously by all members present. Mr. Willett was absent.**

- 3.B.3. Adoption of Emergency Board Order WM-10-06(E), revisions to NR 10 related to Spring Turkey Permits  
**Kurt Thiede**, Wildlife Biologist, Wildlife Management Bureau stated that this emergency rule is necessary to establish procedures for the issuance of turkey hunting permits as required by state statute. As a result of 2005 Wisconsin Act 25, turkey hunting permits remaining after the initial drawing shall be made available to resident and non-resident hunters on a first-come, first-served basis. In order to have issuance procedures in place for the 2006 Spring and Fall Turkey Hunting seasons an emergency rule is required. The department recommends that turkey permits remaining after the initial drawing, be made available to customers at a rate of 1 permit per day, with no limit on the number of permits that an individual hunter may obtain in a given license year. By limiting the permits to one per day per hunter it will avoid hoarding and allow hunters equal opportunities at available permits. Additionally, this rule updates code language to accurately describe how permits are currently issued (by zone and by time period) and establishes that no person may obtain more than one turkey carcass tag per day.  
**Mr. Behnke** asked where the permits will be available.  
**Mr. Thiede** stated they will be available through any ALIS terminal, over the internet and 800 telephone number.  
**Dr. Thomas** asked what is being done to prevent short circuiting of the computer system on March 10.  
**Mr. Thiede** stated that there aren't any assurances that the system won't go down, but the Bureau of Wildlife Management will work with the Bureau of Customer Service and Licensing to monitor the system. The limit of one permit per day will also help address that possibility.  
**Mr. O'Brien** asked if these permits are for everyone or to only people who already have a permit.  
**Mr. Thiede** stated for anyone, even for those who missed the deadline.  
**Mr. Poulson** asked how hunters know which zones they can hunt in.  
**Mr. Thiede** stated it works somewhat like the antlerless deer bonus permits. It will be complicated because it will not only be by zone, but also by time period.  
**Mr. Behnke** asked if it is possible to know which zones and time periods are available before March 10<sup>th</sup>.  
**Mr. Thiede** stated that information should be available now.

**Mr. Behnke MOVED, seconded by Mr. Poulson adoption of Emergency Board Order WM-10-06(E), revisions to NR 10 related to Spring Turkey Permits. The motion carried unanimously by all members present. Mr. Willett was absent.**

- 3.B.4. Request authorization for public hearing of Board Order WM-01-06, revisions to NR 10, 15, 17, and 19 related to annual Wildlife Management Spring Hearing rule changes.  
**Mr. Thiede** stated that these rule changes are proposed for inclusion on the 2006 Spring Hearing questionnaire. Specifically, these proposals:
- Extend the closing date of the ruffed grouse season in Zone A
  - Expand the fall wild turkey hunting season from the Saturday nearest September 15th and continuing through the Thursday immediately prior to the opening of the deer gun season.
  - Create a 2-day youth turkey hunt on the weekend before the regular spring turkey season.
  - Extend the ending of the spring wild turkey hunting hours from 5 p.m. to sunset.
  - Prohibit possession of electronic calling equipment while turkey or waterfowl hunting.
  - Create consistent standards for body-gripping type traps.
  - Issue turkey tags remaining after the initial special license drawing over-the-counter at a rate of one carcass tag per customer per day.
  - Change the "no dog training" period from April 15- July 31 to April 1-July 31.
  - Change the minimum age of the Youth Learn to Hunt Program.
  - Allow Class A bear licenses to be purchased up to the day prior to the bear season, and allow the purchase of a Class A bear license during the bear season, provided the license is not effective until three days after the date of purchase.
  - Allow the use of rifles in Kewaunee County during the gun deer season.
  - Create a limited entry shotgun deer gun season, followed by a muzzleloader season and late archery season at High Cliff State Park.
  - Eliminate the Greenwood "No Entry Wildlife Refuge" in Waushara County.
  - Require a pheasant stamp statewide for anyone who hunts pheasants.
- Mr. Welter** asked for clarification about the ruffed grouse zone map proposal.

**Mr. Thiede** stated that Zone A and B are being consolidated and Zone C will be separate. Then Zone A and B will be Zone A and Zone C will become Zone B.

**Mr. Behnke** asked why there are still two zones.

**Mr. Thiede** stated that Zone B is a much shorter season because the population numbers are lower, eventually it may just be one statewide zone.

**Mr. Welter** suggested changing the wording of question 1 regarding ruffed grouse to make it clearer to the public.

**Mr. Poulson** asked if youth must apply just like adults for the turkey permits if they go with an adult who has a permit.

**Mr. Thiede** stated no, but the adult will not be allowed to harvest a turkey unless they have a permit.

**Dr. Thomas** asked about bear license purchases and why people aren't claiming their permits. She asked if it was possible to sell them the way the turkey permits are being sold.

**Mr. Thiede** stated we are not sure why people aren't claiming their licenses. If we wanted to sell them like the turkey permit it would take a statutory change, but it is an option.

**Mr. Poulson** asked about crop damage permits and the ability to use left over permits there.

**Mr. Thiede** stated that crop damage permits are managed through another process.

**Mr. Poulson** asked about the ability to keep the bear carcass from a crop damage permit.

**Mr. Thiede** stated that he would get back to him about that.

**Mr. Ela** asked about the Kewaunee county board's position on the rifle proposal.

**Mr. Thiede** stated typically we hear their position when it is posed as an official rule change, so we will know after the results of the hearing. We will take their position into account before adoption.

**Mr. Behnke** asked about the boundary for waterfowl hunting. He stated he has heard many complaints. Why are we not offering option C, a third zone without a split?

**Mr. Thiede** stated he would mention that to the Waterfowl Specialist.

**Mr. Hauge** stated that there hasn't been widespread support for the Zone C has not yet materialized.

**Mr. Behnke** stated that he sees the lack of support for Zone C is due to the fact that it hasn't been proposed by the Department as an option, therefore hasn't gained support.

**Mr. Behnke MOVED, seconded by Dr. Thomas to amend to include a question to include an option C that would allow a single opener and a third zone for the late flight of waterfowl.**

**Mr. Welter** asked for clarification if that would be a coastal zone.

**Mr. Behnke** stated yes, but he would like the Wildlife Bureau Staff to work out the details of the question.

**Dr. Thomas** asked if everything opens at the same time, why do we need zones at all.

**Mr. Behnke** stated because we can't make any changes for five more years.

**Mr. Thiede** stated that we were turned down by the federal government to have the option of three zones with splits within each zone.

**The motion carried unanimously by all members present. Mr. Willett was absent.**

**Mr. Behnke** requested baiting and feeding for legislative change question go on the spring hearing questions. It doesn't need a Board vote.

**Mr. Welter MOVED, seconded by Mr. Ela approval of request authorization for public hearing of Board Order WM-01-06, revisions to NR 10, NR 15, NR 17, and NR 19 related to annual Wildlife Management Spring Hearing rule changes. The motion carried unanimously by all members present. Mr. Willett was absent.**

**3.B.5. Request authorization for public hearing of Board Order FH-12-06 related to annual Fisheries Spring Hearing rule changes.**

**Joe Hennessy**, Natural Resources Staff Specialist, Fisheries Management and Habitat Protection Bureau stated that the Bureaus of Fisheries Management and Habitat Protection and Law Enforcement propose to hold public hearings regarding recommended fishing and clamming rule changes at the 2006 spring rules hearings, April 10, 2006. At this time, the Department anticipates requesting hearings on the following proposals of statewide interest:

- Proposals to increase the minimum length limit to 50" for muskellunge in the Lake Winnebago and Fox River systems, as part of the Great Lake spotted musky rehabilitation plan;
- Proposals to simplify walleye regulations in Green Bay and Menominee River boundary waters, in conjunction with Michigan DNR;

- Proposal to establish a catch-and-release only fishery for lake sturgeon in the lower Menominee River boundary waters in conjunction with the Michigan DNR;
  - Proposal to close harvest of live mussels from inland waters;
  - Proposal to extend a sunset on experimental walleye and sauger regulations in the Wisconsin River;
  - Proposal to ban “sinker release deceives:” and a proposal to broaden night bowfishing opportunities
- Approximately 20 changes of local interest will be present, relating to fishing regulations for individual species on inland lakes.

Mr. Willett asked if the rules are implemented upon publication.

Mr. Hennessey stated that is correct and it wouldn't be implemented until after we come back with a request to adopt the rules.

Mr. Welter asked that the typos be removed before the proposals go out to hearings.

**Mr. Welter MOVED, seconded by Dr. Thomas approval of request authorization for public hearing of Board Order FH-12-06 related to annual Fisheries Spring Hearing rule changes. The motion carried unanimously by all members.**

Steve Oestreicher, Conservation Congress Chair reviewed the congress questions.

Dr. Thomas asked about the Hunter and Angler Bill of Rights and is it 3 separate items.

Mr. Oestreicher stated that this is in draft form and we can discuss that with the legislative committee.

Mr. Ela stated changing the language for the second great lakes committee question “lower level of increased protection” is confusing.

Mr. Welter suggested splitting question one about baiting and feeding into two questions.

Mr. Oestreicher stated that the Executive Council of the Conservation Congress passed a resolution to request the NRB to direct the Department to prioritize and begin working on a Sandhill Crane Management Plan with the USFWS and other states in the Mississippi Flyway Zone. He presented an appreciation of exceptional service To Herb Behnke from the Conservation Congress.

### 3.B.6. Land Acquisition, Dell Creek Wildlife Area, Sauk County

**Mr. Ela MOVED, seconded by Mr. Welter approval of Land Acquisition, Dell Creek Wildlife Area, Sauk County. The motion carried unanimously by all members.**

### 3.B.7. Land Sale, Mirror Lake State Park, Sauk County

**Dr. Thomas MOVED, seconded by Mr. Poulson approval of Land Sale, Mirror Lake State Park, Sauk County.**

Mr. Welter asked if the Hwy 23 corridor is removed from the boundary of the park.

Richard Steffes, Real Estate Director stated that the statute states that the Department needs to declare the land no longer needed for conservation purposes in order to sell it. The land has been replaced by the Wisconsin Power and Light land that we bought last year.

Mr. Behnke stated there should be a friendly amendment to stated that this land is no longer needed for conservation . Dr. Thomas seconded the friendly amendment.

Mr. Ela asked if there was the opportunity for secondary development within the corridor.

Mr. Steffes suggested that he include a deed restriction to prohibit secondary development

**The motion carried unanimously by all members.**

### 3.B.8. Land Acquisition, Clam River Fishery Area, Burnett County

**Mr. Behnke MOVED, seconded by Mr. Welter approval of Land Acquisition, Clam River Fishery Area, Burnett County. The motion carried unanimously by all members.**

### 3.B.9. Land Acquisition, Baraboo Hills Recreation Area, Sauk County

**Mr. Ela MOVED, seconded by Mr. Welter approval of Land Acquisition, Baraboo Hills Recreation Area, Sauk County. The motion carried unanimously by all members.**

3.B.10. Land Acquisition and Project Boundary Modification, Kinnickinnic State Park, Pierce County

**Mr. Welter MOVED, seconded by Mr. Behnke approval of Land Acquisition and Project Boundary Modification, Kinnickinnic State Park, Pierce County The motion carried unanimously by all members.**

3.B.11. Land Acquisition, Central Wisconsin Grasslands Conservation Area, Portage County

**Mr. Behnke MOVED, seconded by Mr. Ela approval of Land Acquisition, Central Wisconsin Grasslands Conservation Area, Portage County. The motion carried unanimously by all members.**

**Mr. Poulson** stated that this shows our commitment to the Prairie Chicken project and our commitment to purchase land for that purpose. He has received some negative letters stating that we don't care and he thinks this is proof that we have shown good support for the project.

**Dr. Thomas** asked if it will be part of Mead Wildlife Area.

**Mr. Steffes** stated that the state is acquiring this land under the Central Wisconsin Grasslands Conservation Area. It will be managed by the Mead Wildlife Area Manager.

3.B.12. Land Acquisition, Statewide Wildlife Habitat Area, St. Croix County.

**Mr. Ela MOVED, seconded by Mr. Poulson approval of Land Acquisition, Statewide Wildlife Habitat Area, St. Croix County. The motion carried unanimously by all members.**

3.B.13. Land Acquisition and Project Boundary Modification, Beaver Brook Wildlife Area, Washburn County

**Mr. Ela MOVED, seconded by Mr. Welter approval of Land Acquisition and Project Boundary Modification, Beaver Brook Wildlife Area, Washburn County. The motion carried unanimously by all members.**

3.B.14. Land Donations, Honey Creek Wildlife Area, Walworth County

**Mr. Ela** stated that his wife is involved in this transaction, but since neither his wife nor the organization is benefiting from this transaction he will not abstain.

**Mr. Welter MOVED, seconded by Mr. Behnke to accept, express appreciation and modify boundaries of Land Donations, Honey Creek Wildlife Area, Walworth County.**

**Mr. Poulson** asked about the proximity to the Turtle Lake project.

**Mr. Steffes** stated that it is on the other side of the county.

**The motion carried unanimously by all members.**

4. Citizen Participation 1:00 p.m.

4.A. Citizen Recognition

4.A.1. The Natural Resources Foundation will donate \$45,000 to the Endangered Resources Program to be used in the management of State Natural Areas in La Crosse and Kenosha Counties.

**Charlie Luthin**, Natural Resources Foundation Director gave an overview of NRF commitment to Statewide Natural Areas including developing friends group, working with Department staff, and financial support.

**Secretary Hassett** presented Mr. Luthin with a certificate of appreciation for their generous gift.

**Mr. Welter MOVED, seconded by Mr. Willett approval of the \$45,000 donation from the Natural Resources Foundation to the Endangered Resources Program to be used in the management of State Natural Areas in La Crosse and Kenosha Counties.**

4.A.2. Friends of Wisconsin State Parks will donate \$6,192.01 to the DNR and present their Mission, Vision, and Accomplishments and Donation

**Bill Morrissey**, Director, Parks Bureau gave a basic framework of the Friends program, including the Friends of Wisconsin State Parks (FWSP) mission and accomplishments. He highlighted the specific goals of the friends program. He also outlined a donation to the DNR from the Friends of Wisconsin State Park along

with an agreement with the Natural Resources Foundation and the Bureau of Endangered Resources to open and promote the Wisconsin Natural Resources Affinity Credit Card through US Bank.

**Kate Zurlo-Cuva**, Friends and Volunteer Coordinator, Parks Bureau introduced Tim Lovett, FWSP Secretary and two local friends group representative.

**Tim Lovett**, FWSP Secretary discussed the mission of the statewide FWSP group and how they provide services to local friends group such as providing insurance, financial support, and assisting with receiving their non-profit status.

**Don Stoffel**, President, Friends of Devil's Lake State Park gave a history of their local friends group. The help the park financially, with volunteer work, staffing the nature center, and manage invasive species.

**Dunnell Kendrick-Parker**, President, Friends of New Glarus State Park gave a history of their young group. Their group writes grants that have funded educational programs, kiosk, and educational backpacks.

**Secretary Hassett** presented a certificate of appreciation to the FWSP for their generous donation.

4.B. **Public Comment**

- 4.B.1. **Ron Kuehn**, Madison, Cranberry Growers Association – Lac Du Flambeau application for state water quality standards authority. He met with Secretary Hassett and Mr. Ambs to voice the Cranberry Growers' concerns with this the Lac Du Flambeau's application for treatment as a state. He urged the Board to direct the Department to oppose this application and any other similar treatment as state applications. He gave a short summary of the history of these types of applications and how it would affect the Northern Wisconsin residents. He asked that the decision be made long before the February 21<sup>st</sup> deadline.

**Mr. Welter** asked how many cranberry operations are there in this area.

**Mr. Kuehn** stated there are six, five of which are on Little Trout Lake. The border of the reservation runs through the middle of the lake. They are outside the Reservation, however, the Lac Du Flambeau has addressed that by attempting to apply the Clean Water Act to declare Cranberry operations to be a point source activity that would allow them to reach beyond the borders of the reservation. The USEPA can grant this treatment, it's not a Department decision.

**Mr. O'Brien** asked Secretary Hassett to comment on the letter from EPA granting the extension of the comment period for this issue.

**Secretary Hassett** stated that over the past couple of weeks the Department has been meeting with The Cranberry Growers along with other stakeholders. The Department is doing some legal analysis. There are a variety of watersheds that will be affected in different ways. There is a lot of misinformation out there of the potential impact of treatment of a state. The Department is trying to get the right and correct information out to the different stakeholders. The USEPA wants our legal opinion as opposed to public comment. We have not decided what our position is going to be.

**Mr. Willett** asked about the Mole Lake did a similar application when we had the mining issue.

**Secretary Hassett** stated that Mole Lake did do the petition and we fought it unsuccessfully.

**Dr. Thomas** asked if Mole Lake is now administering the Clean Water Act on their lands.

**Michael Lutz**, Department Attorney stated that Mole Lake does administer water quality standards of the Clean Water Act on their reservation. There are no upstream dischargers that flow into the Mole Lake Reservation. He added that the Department is being asked to give a recommendation. The request for the State's position went to the Governor and it's the Governor's office that's responsible for creating the position.

**Mr. Behnke** asked if the Mole Lake decision is a precedence setting as it relates to this issue.

**Mr. Lutz** stated it will be a matter of some debate. The Department's argument in that case was that the federal government had given the sovereignty of the waters to the State under the Public Trust Doctrine. That was rejected by the Seventh Circuit. The danger exists that if the Department go to the Seventh Circuit with the same argument, the same result may occur.

**Mr. Willett** stated that this seems to be a large policy decision that the Department is making without consulting the Board about their opinion on the position. He doesn't think that is appropriate. He asked why the Board is only finding out about it now, shortly before the deadline.

**Mr. Lutz** stated that the Governor's office has asked the Department to consult with the Governor's staff and the Department has been doing that.

**Mr. Willett** asked that's fine, but isn't the Board also supposed to consult with the Board.

**Mr. Lutz** stated that the Governor's office is asking for a legal opinion, not a policy decision.

**Mr. Willett** stated that The Cranberry Growers are asking the Department and Board to take a position to either support it or not.

**Mr. Lutz** stated that ultimately the decision maker is not the Department, it's the Governor.

**Mr. Willett** stated that the Department enforces the Clean Water and the Clean Air Act as the agent of the EPA. He asked why the Board has to hear about this from a citizen and not the Department on an issue that is as important as this.

**Mr. Lutz** stated that this program is under federal law and the Cranberry operations are not considered a point source discharge under that law, so federal law would need to be changed.

**Mr. Welter** clarified that it is not a normal residential septic discharge that would be affected by this. It's only the two permit holders, The Lakeland Sanitary District and the DNR Fish Hatchery would be affected.

**Mr. Lutz** stated that is correct. It could also affect wetland fill applications.

**Mr. O'Brien** asked the Board if they would like to meet in a conference call within the next week.

**Mr. Poulson** stated that he concerned because of the new non point rules ramifications.

**Mr. Willett** thinks Mr. O'Brien's idea is a good one. It needs to be determined what the potentials are, what policy questions are involved, and what the role is for the Department and the Board.

- 4.B.2. **Steve Winters**, Reedsburg – Noise regulations of watercraft stated that the 86 decibel for watercraft should be enforced statewide. He suggested that the language state “no watercraft will create a noise level in excess of 86 decibels measured on an ‘A’ rated decibel scale on any waters of Wisconsin including its boundary waters. The only possible exemptions would be for municipal, county, state, and federal employees on official business.” The noise should be measured in any way they want as long as it's on an accurate decibel meter.

**Mr. Willett** asked about the air boat on Madeline Island that is operated by a private individual.

**Mr. Winters** stated he could be the one exemption.

- 4.B.3. **George Meyer**, Madison, Wisconsin Wildlife Federation – Noise regulations of watercraft stated that there needs to be a way developed to test the decibel level of airboats. His organization encourages the Department to develop a test so there would be legally accepted testing methodology. These noisy watercraft disturb other waterway users, landowners, and wildlife. The users of these watercraft wear ear protection.

- 4.B.4. **Mark Cupp**, Muscoda, Lower Wisconsin State Riverway Board – Noise regulations of watercraft stated that the noise regulations clearly falls within the Department's regulatory purview and is not directly within the Riverway Board's authority to protect the aesthetic integrity of the Lower Wisconsin River Valley. The issue of whether the statutes or rules do/do not apply to propeller noise, engine noise and/or muffler noise should be resolved and, if necessary, changes to the regulations implemented. DNR Conservation Wardens should be given adequate tools and training to properly enforce the regulations and to assure enforcement actions are defensible in court. The Riverway Board opposes any exclusions of waterways. The Department may also want to study adverse affects on flora and fauna. The Riverway Board is not advocating prohibition of motorized watercraft on the lower Wisconsin River.

**Don Greenwood**, Sauk County representative, Lower Wisconsin Riverway Board agreed with Mr. Cupp's comments and added that if the present hands-off or to introduce exceptions to enforcement to certain waters the thousands of hours and millions dollars that have been spent to preserve and protect this outstanding natural resource may be lost.

- 4.B.5. **Timm Zumm**, Spring Green, Friends of the Lower Wisconsin Riverway – Noise regulations of watercraft stated that hovercraft can be compliant with the 86 decibel level. We are not asking for the ban of any specific type of watercraft, instead should be a noise level standard.

**Mr. Poulson** asked about safety concerns of these watercraft.

**Mr. Zumm** stated there are regulations for watercraft about being 100 feet away and not create a dangerous wake.

**Mr. Ela** asked how fast the watercraft goes.

**Mr. Zumm** stated 40-60 mph for hovercrafts and airboats, which are much louder, even at a slow speed are loud.

- 4.B.6. **Darren Bush**, Madison, Rutabaga Pattlesports – Noise regulations of watercraft stated that he has paddled the Wisconsin River for 20 years. He shared his experiences with these types of watercraft. He doesn't have a problem with motorized watercraft, he is concerned with excessive noise and speed by these watercraft.

**Mr. Welter** asked how often he encounters airboats on the Lower Wisconsin River.

**Mr. Bush** stated two to three times a year. They aren't that common.

- 4.B.7. **Don Golembiewski**, Spring Green – Noise regulations of watercraft stated he owns land on the Lower Wisconsin Riverway. He is a very careful user of the Wisconsin Natural Resources. He doesn't want certain watercraft to be regulated, just the noise of those watercraft. He urged the Board to regulate noise on all watercraft on the Lower Wisconsin Riverway.



- 4.B.8. **John Gremmer**, Winneconne stated he is concerned with watercraft noise. He asked the Department to take action to enforce the 86 decibel regulation on all lakes and rivers.

**Mr. Ela** asked the Department the difficulty in enforcing the 86 decibel level.

**Amy Smith**, Division Administrator, Law Enforcement and Science Services stated there isn't a safe test that can be administered in the field.

**Mr. Lutz** stated a drive by test is the only certified test. There is a safety issue with asking the operator to speed by the testing device.

**Mr. Welter** asked if an airboat at idle able to reach the same level of noise as when it is traveling at 60 mph.

**Mr. Lutz** stated that according to the Florida study on air boats and it shows that some at rest can't pass the test.

**Mr. Ela** asked if the Department can confirm that one of the proposals will not be exemptions of certain waters.

**Ms. Smith** stated yes.

**Mr. O'Brien** asked for a timeline of when this will come before the Board as a rule proposal.

**Mr. Lutz** stated it depends on when we can find an adequate test, but we could start the process without a test and then it would only be a couple of months.

5. Board Members' Matters

**Mr. Behnke** stated that his first issue is exchange of letters between the Prairie Chicken people and the Department. He would like to see some sort of cooperation. His second issue is Karl Bommen letters regarding bear complaints. He asked Secretary Hassett to answer his letters.

**Mr. Welter** stated there is a proposal for the State to sell land at the Winnebago Mental Health Facility. It is going to be turned over to development. He is also concerned about the air boats in the Wisconsin River. He would like it to come back before the Board this spring.

**Dr. Thomas** asked for a report on the captive deer escape at Buckhorn flats at next meeting.

**Secretary Hassett** stated that by the time we meet next month there will be an informational meeting in that area with DATCP.

5.A. Election of Officers

**Mr. Ela** nominated Dr. Thomas for the position of Chair.

**Dr. Thomas** deferred to Mr. O'Brien if he would like to remain Chair.

**Mr. O'Brien** accepted the nomination.

**Dr. Thomas** declined nomination.

**Mr. Poulson MOVED that nominations for Chair be closed. The motion was approved unanimously by all members.**

**Mr. Poulson** nominated Dr. Thomas as Vice-Chair.

**Mr. Behnke MOVED that nominations for Vice Chair be closed. The motion carried unanimously by all members.**

**Mr. Welter** nominated Mr. Ela as Secretary.

**Mr. Behnke MOVED that nominations for Secretary be closed. The motion carried unanimously by all members.**

6. Special Committees' Reports  
None.

7. Department Secretary's Matters

7.A. Retirement Resolutions

7.A.1. Michael V. Michaelson

7.A.2. Martin Kasinskas

7.A.3. Peggy Norris-Dunn

7.A.4. Sara Burr

7.A.5. Dennis A. Leith

7.A.6. Dale J. Lang

7.A.7. Steven J. Wendland

- 7.A.8. Joseph W. Brusca
- 7.A.9. Donna J. Jerzewski

**Dr. Thomas MOVED, seconded by Mr. Behnke approval of the Retirement Resolutions. The motion carried unanimously by all members.**

- 7.B. Donations  
None

- 7.C. Secretary Hassett distributed Land Legacy Report to each of the Board members. The official release is tomorrow. He stated that the extra turkey permits will go on sale at noon on March 10, not at midnight. He also distributed the Board of Commissioners for Public Land project paper and memo regarding purchasing land owned by BCPL. It was initiated by legislators and BCPL. He also distributed a letter to the legislature regarding baiting and feeding. He also mentioned the League of Conservation Voters and the petition they have given to the NRB. He also checked on the treatment as a state and EPA historically it has been handled administratively because they are asking for a legal opinion.  
Mr. Willett stated that it is not the governor's call because we are not an executive government according to the statute.  
Secretary Hassett stated the past practice has been not to bring this issue before the Board as a policy matter because it was a legal/administrative position.  
Mr. Willett stated that he was on the Board when this same issue was used concerning the previous case of the Crandon Mine. The power was to go to the Mole Lake Band in controlling what went into the river. The potential is that you will have the Lac du Flambeau determining the permit limitation of Lakeland Sanitary District.  
Mr. Ela asked for a report on the BCPL legislation before the Department takes a position on this issue.

- 8. Information Items

- 8.A. Air, Waste, and Water/Enforcement
- 8.A.1. Overview of pending federal air rules

Al Shea, Administrator, Air and Waste Division suggested that in lieu of giving a presentation now, he would schedule a two hour briefing before the next Board meeting for those Board Members interested in receiving this information. The meeting is tentatively scheduled for 2-5 p.m. on Tuesday, February 21.  
Mr. Willett stated he thought that was a good idea because there a major change in the federal rules and it will affect the Department.

- 8.B. Land Management, Recreation, and Fisheries/Wildlife

- 8.B.1. Revised Master Planning Process for Department Properties.

Steve Miller stated that the Department has been exploring ways to improve the efficiency and timeliness of master planning for Department properties. Staff will inform the Board of their analysis of this issue and inform the Board of proposed recommendations the Board would need to act on at a later meeting to implement a more streamlined and efficient process.

Mr. Ela asked about the definition of a Recreation Area.

Tom Watkins, Property Planning Specialist, Facilities and Lands Bureau stated that it has some different management capabilities because unlike parks use limits can be set for certain areas on the property and it includes hunting as a general activity.

Dr. Thomas asked about the proposed timeframe of completing all these plans. It will take 120 years to complete all the plans.

Mr. Miller stated that with five field planners working at least two plans at a time and then other property managers working on plans it will be less than that.

Mr. Behnke asked that an appeal process be worked into the Tier 2 process.

Mr. Miller stated that is a good idea.

Mr. Willett state he thinks that these tier 2 properties should be brought before the Board.

Mr. Miller stated in our efforts to streamline we are proposing an aggressive approach that can be modified depending on the Board's preference and the public response.

Mr. Willett stated he would like to see a list of all 1200 properties.

Dr. Thomas suggested a website.

Mr. Ela stated that passing the whole package in March may not be possible. It may be an evolving process.

Mr. Poulson asked about a property changing tiers and what that process would be.

**Mr. Behnke MOVED, seconded by Mr. Poulson for the Board adjourned for lunch and executive session under the authority of s.19.85(1) (e) Wisconsin Statutes, for the purpose of discussing potential real estate transactions. A roll call vote was taken.**

**Mr. O'Brien - Yes**

**Mr. Poulson – Yes**

**Mr. Behnke – Yes**

**Mr. Ela – Yes**

**Dr. Thomas – Yes**

**Mr. Welter – Yes**

**Mr. Willett - Yes**

Upon completion of the Executive Session, **Mr. O'Brien** stated there was no action taken during the executive session.

**8.B.2. Legislative response to Clearinghouse Rule 05-086 (Board Order WM-29-05), revisions to NR 10 pertaining to deer hunting season and regulations.**

**Keith Warnke**, Wildlife Biologist, Wildlife Management Bureau stated that the Department is discussing potential modifications to Clearinghouse rule 05-086 (WM-29-05), relating to the deer hunting seasons and permit issuance regulation changes, requested by the Senate Natural Resources and Transportation Committee. The Senate committees held a joint hearing on Monday, January 23, 2006. The main issues brought up at this hearing were the timing of the youth deer hunt which falls during the bear season and the four deer antlerless hunt in December and perception of impact on the snowmobile clubs in the Northern part of the state. Following the hearing, the Senate Committee held an executive session. A motion requesting that the DNR consider modifications was made and passed unanimously. There is a very tight timeline due to many factors including developing, designing, loading, and testing the ALIS terminals before the start of the license sales. There was a 2 hour conference call on January 24, 2006 to discuss the issue with stakeholders to discuss modifications including the youth deer hunt dates and the December antlerless deer hunt. He requested that the Board hold a conference call for next week to consider modifications.

**Mr. Behnke** asked if the Department had a recommendation at this point other than staying with the original proposal.

**Mr. Warnke** stated the Department doesn't have any recommendations at this point because we need evaluate what happens at the Assembly tomorrow morning and review what the stakeholder group recommended. The Senate committee hasn't sent any specific modifications yet. He further explained the process.

**Mr. Behnke** asked about the letter and the request by Senator Kedzie and if we don't make modifications and stick with the original recommendation and the legislature doesn't accept it, would we go back to the 2005 deer season framework.

**Mr. Warnke** stated that the letter requests we consider modifications and if we fail to respond by the deadline, then they automatically object then we go back to the 2005 framework.

**Tim Andryk** DNR Attorney stated that if we fail to respond in writing or we send a letter that states we will not agree to consider modifications then they have objected to the rule and the rule goes to the Joint Committee to review administrative rules.

**Mr. Welter** stated that we have a short timeline. We must decide to meet and discuss what modifications we want to consider before February 3<sup>rd</sup>.

**Mr. Warnke** stated we have been working with the offices of both chairs and to make sure that the timeline is clear to everyone involved.

**Mr. O'Brien** asked if there is going to be any new information that will be available in the next week.

**Mr. Warnke** stated that we will continue to have discussions with both committee chairs.

**Mr. Welter** suggested a January 31<sup>st</sup> 8:00 a.m. conference call.

**Mr. Behnke** expressed his appreciation of his association with the Natural Resources Board and with DNR Staff. It has been a wonderful relationship. He is very impressed with all the DNR employees throughout the state – their dedication and loyalty.

\*\*\*The meeting adjourned at 3:45 p.m.\*\*\*